

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

IN RE:

**Lawrence NMN Singleton, III
Shalonda Patrice Singleton,

Debtors.**

CHAPTER 13

BANKRUPTCY NO.: 19-01475-jw

**NOTICE OF MOTION SEEKING
11 U.S.C. §362(d) RELIEF**

TO: DEBTOR(S), TRUSTEE, AND THOSE NAMED IN THE ATTACHED MOTION

PLEASE TAKE NOTICE THAT ON **September 5, 2019 at 11:00 a.m.**, located at the United States Bankruptcy Court, 145 King Street, Room 225, Charleston, SC 29401, a hearing will be held on the attached Motion.

Within fourteen (14) days after service of the attached Motion, and the Notice of Motion, accompanied by the movant's Certification of Facts, any party objecting to the relief sought shall:

- 1) File with the Clerk of this Court a written objection to the §362 Motion;
- 2) File with the Clerk of this Court a Certification of Facts; and
- 3) Serve on the Movant items 1 & 2 above at the address shown below;
- 4) File a certificate of such service with the Clerk of this Court.

Should you fail to comply with this procedure, you may be denied the opportunity to appear and be heard on this proceeding before the court.

**DATE OF SERVICE: July 25, 2019
MOVANT: BANK OF AMERICA, N.A**

Charleston, South Carolina
July 25, 2019

By: /s/Kristen N. Nichols
Kristen N. Nichols
District Court No. #9770
Turner Padgett Graham & Laney PA
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, SC 29413
Telephone: (843)576-2836
Attorneys for BANK OF AMERICA, N.A

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

IN RE:

**Lawrence NMN Singleton, III
Shalonda Patrice Singleton,

Debtors.**

CHAPTER 13

BANKRUPTCY NO.: 19-01475-jw

MOTION FOR RELIEF FROM AUTOMATIC STAY

BANK OF AMERICA, N.A, (“Movant”), by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d), for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtors filed a voluntary petition pursuant to Chapter 13 of the United States Bankruptcy Code on March 14, 2019.
2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.
3. James M. Wyman is the Trustee of the Debtors’ estate and may claim an interest in the property that is the subject of this action.
4. On March 1, 2008, Debtors executed and delivered a Promissory Note (“Note”) and Mortgage (“Mortgage”) securing payment of the Note, in the amount \$207,665.00, to CTX Mortgage Company, LLC. The Mortgage was recorded on March 26, 2008, in Book 7206 at Page 227 in the Public Records of Berkeley County, South Carolina. The Mortgage was later assigned to Movant by virtue of that certain Assignment of Mortgage recorded June 29, 2011, in Book 8992 at Page 277 in the Public Records of Berkeley

County, South Carolina. True and accurate copies of the Note and Mortgage, including that certain Assignment are attached hereto as Exhibits and the terms thereof are incorporated herein by reference.

5. The Mortgage provides Movant a lien on the real property located at the street address of 295 Clayburne Drive, Goose Creek, SC 29445 (the "Property").
6. The terms of the aforementioned Note and Mortgage have been in default, and remain in post-petition default due to Debtors' failure to maintain post-petition payments for April, May, June, and July 2019.
7. The balance owed Movant pursuant to the Note, as of July 2, 2019, is \$308,104.88.
8. Movant's security interest in the Property is being significantly jeopardized by Debtors' failure to comply with the terms of the subject loan documents while Movant is prohibited from pursuing lawful remedies to protect such interest. Movant has no protection against the erosion of its collateral position and no other form of adequate protection is provided.
9. If Movant is not permitted to enforce its security interest in the collateral or be provided with adequate protection, it will suffer irreparable injury, loss, and damage.
10. Movant respectfully requests the Court grant it relief from the Automatic Stay in this cause pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Movant for its interest in the above stated collateral; and pursuant to §362(d)(2)(A) of the Bankruptcy Code as there is no equity in the Property above the Debtors' exemption.
11. Movant has incurred court costs and attorney's fees in this proceeding and will incur additional fees, costs and expenses in foreclosing the Mortgage and in preserving and

protecting the property, all of which additional sums are secured by the lien of the Mortgage. Movant seeks an award of its reasonable attorneys' fees and costs, or alternatively, leave to seek recovery of its reasonable attorneys' fees and costs in any pending or subsequent foreclosure proceeding.

12. The Movant agrees to waive any claim that may arise under 11 U.S.C. Section 503(b) or Section 507(b) as a result of this Order. The Movant further agrees that any funds realized from the sale of the collateral, in excess of all liens, costs, and expenses, will be paid to the Trustee.

WHEREFORE, Movant, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit Movant to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to seek recovery of its reasonable attorneys' fees and costs incurred in this proceeding, and to any such further relief as this Honorable Court deems just and appropriate.

Charleston, South Carolina
July 25, 2019

By: /s/Kristen N. Nichols
Kristen N. Nichols
District Court No. #9770
Turner Padgett Graham & Laney PA
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, SC 29413
Telephone: (843)576-2836
Attorneys for BANK OF AMERICA, N.A

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

IN RE:

**Lawrence NMN Singleton, III
Shalonda Patrice Singleton,

Debtors.**

CHAPTER 13

BANKRUPTCY NO.: 19-01475-jw

CERTIFICATION OF FACTS

In the above-entitled proceeding, in which relief is sought by BANK OF AMERICA, N.A, (“Movant”), from the automatic stay provided by 11 U.S.C. § 362, I do hereby certify to the best of my knowledge the following:

1. Nature of Movant's Interest:
Movant is the holder of the Note and has a perfected security interest in the below-referenced property.
2. Brief Description of Security Agreement, copy attached (if applicable).
Copies of the Note with any required indorsements, Recorded Mortgage, Assignment(s) of Mortgage, and any other applicable documentation supporting the right to seek a lift of the automatic stay and foreclose.
3. Description of Property Encumbered by Stay (include serial number, lot and block number, etc.). 295 Clayburne Drive, Goose Creek, SC 29445
4. Basis for Relief (property not necessary for reorganization, debtor has no equity, property not property of estate, etc.) include applicable subsection of 11 U.S.C. § 362). Pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Movant for its interest in the above stated collateral; and pursuant to §362(d)(2)(A) of the Bankruptcy Code as there is no equity in the Property above the Debtors’ exemption.
5. Prior Adjudication by Other Courts, copy attached (Decree of Foreclosure, Order for Possession, Levy of Execution, etc., if applicable).
N/A
6. Valuation of Property, copy of Valuation attached (Appraisal, Blue Book, etc.):
Fair Market Value: \$230,000.00
Liens (Mortgages): \$308,104.88.
Equity Before Exemption: \$0.00
Debtor’s Exemption:
Net Equity: \$0.00
Source/Basis of Value: Debtor’s Schedule “A”
7. Amount of Debtor's Estimated Equity (using figures from paragraph 6, supra).
\$0.00

8. Month and Year in Which First Direct Post-petition Payment Came Due to Movant (if applicable).

April 2019

9. (a) For Movant/Lienholder (if applicable): List or attach a list of all post-petition payments received directly from debtor(s) , clearly showing date received, amount, and month and year for which each such payment was applied.

(b) For Objecting Party (if applicable): List or attach a list of all post-petition payments included in the Movant's list from (a) above which objecting party disputes as having been made. Attach written proof of such payment(s) or a statement as to why such proof is not available at the time of filing this objection.

10. Month and Year for Which Post-petition Account of Debtor(s) is Due as of the Date of this Motion:

April 2019

Charleston, South Carolina
July 25, 2019

By: /s/Kristen N. Nichols
Kristen N. Nichols
District Court No. #9770
Turner Padget Graham & Laney PA
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, SC 29413
Telephone: (843)576-2836
Attorneys for BANK OF AMERICA, N.A

POST PETITION PAY HISTORY

Payment Amount	Received Date	Applied to Payment Date
	NO POST-PETITION PAYMENTS RECEIVED	

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

IN RE:

**Lawrence NMN Singleton, III
Shalonda Patrice Singleton,**

Debtors.

CHAPTER 13

BANKRUPTCY NO.: 19-01475-jw

CERTIFICATE OF SERVICE

I, the undersigned, as counsel for BANK OF AMERICA, N.A do hereby certify that on **July 26, 2019**, I served on the persons below a copy of the Notice of Motion, Motion to Modify Stay, and Movant's Certification of Facts in the above-referenced case by either electronic mail in accordance with U.S. Bankruptcy Court, District of South Carolina, Operating Order 08-07, with respect to CM/ECF Participants, or depositing same in the United States Mail with sufficient postage affixed and addressed as follows, with respect to all other persons:

Lawrence NMN Singleton, III
Shalonda Patrice Singleton
295 Clayburne Drive
Goose Creek, SC 29445
Debtor

Heather S. Bailey
Via CM/ECF
Attorney for Debtor

James M. Wyman
Via CM/ECF
Trustee

US Trustee's Office
Via CM.ECF
U.S. Trustee

/s/ Kristen N. Nichols